February 11, 2017

BY ELECTRONIC MAIL

Bureau of Land Management
Richfield Field Office
Attn: Cindy Ledbetter
150 East 900 North
Richfield, UT 84701
utfrfmail@blm.gov

Re: June 2017 Oil and Gas Lease Sale EA Comments, DOI-BLM-UT-C020-2017-0001-EA

Dear Ms. Ledbetter:

WildEarth Guardians submits the following comments on the Bureau of Land Management's ("BLM's") draft environmental assessment ("EA"), EA No. DOI-BLM-UT-C020-2017-0001-EA, and proposal to issue finding of no significant impact ("FONSI") in support of its June 2017 competitive oil and gas lease sale. The agency has proposed to offer 20 lease parcels for sale and issuance in the Richfield Field Office of Utah. In total, the leasing would hand over the rights for industry to drill and produce oil and gas across 23,733.19 acres.

We request that BLM refrain from offering the proposed leases for sale and find that the lands proposed for leasing should be unavailable for future leasing. While leasing more oil and gas is not in the interest of the American public given that it will only to exacerbate the climate crisis facing our world, in this case it appears the proposed leasing would simply be a major giveaway to the oil and gas industry. As it stands, of the 3,411,493 million acres of federal oil and gas under lease in Utah only 1,134,900 acres are in production.[1] Put another way, only a 1/3 of all leased federal oil and gas acres in Utah are actually producing oil and gas. This raises serious questions over whether the proposed oil and gas leasing would simply allow industry to hoard more leases to strengthen their balance sheet while generating minimal, if not negative, revenue to the American public. With companies allowed to bid as low as $2.00 per acre for oil and gas leases and to pay only a nominal rental of $1.50 per acre per year, it would seem that industry is poised to secure leases for rock bottom prices and use these leases to inflate their assets. All the while, taxpayers will have to pay the cost of BLM administration of the leases, any inspections and enforcement, and lose the opportunity for these public lands to be dedicated to higher and better uses.

[1] According to BLM oil and gas leasing statistics as of the end of FY 2015, https://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics.html.

While we object to the BLM's proposal to lease, given the situation, we at least request the agency give detailed consideration to alternatives that address the likelihood that industry is only seeking the proposed leases in order to stockpile reserves and not actually produce oil and gas. We request the BLM give detailed consideration to the following alternative actions:

- An alternative that imposes a minimum bonus bid higher than $2.00 per acre. Under 43 C.F.R. § 3120.1-2(c), BLM is prohibited from accepting a competitive oil and gas leasing bid that is less than $2.00 per acre. However, there is nothing that prohibits the BLM from establishing a minimum bid that is higher than $2.00 per acre. Here, we request the agency give detailed consideration to an alternative that requires a minimum bonus bid higher than $2.00 per acre as a condition of selling the lease parcels. This will ensure that only serious industry interest in the proposed oil and gas leasing parcels and help to prevent companies from stockpiling federal oil and gas leases as a means to increase their assets and enhance their own financial bottomline.

- An alternative that defers offering the proposed lease parcels for sale until at least 50% of all leased federal oil and gas acres in Utah are put into production. This could happen as a result of leases expiring before being put into production, by industry relinquishing leases that have not produced for many years, or by leases being put into production by companies. This alternative would help to incentivize industry to start producing and generating revenue or to give up their ownership of federal oil and gas leases. This alternative would be a reasonable measure for the BLM to impose as a means for protecting the public interest and maximizing revenue for the American public where leases have been already been issued.

Beyond this, we are concerned that the EA fails to demonstrate that there will be no significant environmental impacts and no need to prepare an environmental impact statement. While the EA discloses a number of potentially impacts, it provides no assessment as to the significant of these impacts and discloses no thresholds of significance upon which to understand how the BLM will make any such assessments.

We are also particularly concerned over how the BLM addresses the potentially significant climate impacts of its proposed leasing. Specifically, the EA fails to appropriately disclose reasonably foreseeable direct and indirect greenhouse gas emissions and fails to disclose the impacts of similar and cumulative actions. Under the National Environmental Policy Act ("NEPA"), within an EA, the scope of the analysis must include "[c]umulative actions" and "[s]imilar actions." 40 C.F.R. §§ 1508.25(a)(2) and (3). Cumulative actions include action that, "when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement." 40 C.F.R. § 1508.25(a)(2). Similar actions include actions that, "when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together." 40 C.F.R. § 1508.25(a)(3). Key indicators of similarities between actions include "common timing or geography." *Id*. Unfortunately, the EA fails to address such impacts, further failing to demonstrate support for a FONSI.

Our detailed concerns are as follows.

I. The EA Fails to Account for Greenhouse Gas Emissions from Cumulative and Similar Actions

Although we are pleased to see the BLM finally develop estimates for reasonably foreseeable direct greenhouse gas emissions associated with the proposed leasing, it appears that the agency's analysis fails to fully comply with NEPA and to demonstrate support for a FONSI.

Notably, the BLM's estimates of greenhouse gas emissions fails to account for emissions from cumulative and similar actions. As NEPA requires, an agency must analyze the impacts of "similar" and "cumulative" actions in the same NEPA document in order to adequately disclose impacts in an EIS or provide sufficient justification for a FONSI in an EA. *See* 40 C.F.R. §§ 1508.25(a)(2) and (3). Here, the BLM failed to take into account the greenhouse gas emissions resulting from other proposed oil and gas leasing in Utah and other neighboring states, as well as related oil and gas development, and to analyze the impacts of these actions in terms of their direct, indirect, and cumulative greenhouse gas emissions.

From a cumulative standpoint, it is first and foremost disconcerting that BLM's analysis is entirely devoid of any consideration of greenhouse gas emissions from oil and gas development within the Richfield Field Office, as well as throughout the western United States. On a Field Office level, the underlying Final EIS prepared for the Richfield Resource Management Plan nowhere analyzes or assesses greenhouse gas emissions associated with oil and gas development. Regionally, including in other Field Offices in Utah as well as Field Offices in the other nearby states, including Nevada, Colorado, Wyoming, and New Mexico, BLM has never attempted to analyze or assess cumulative greenhouse gas emissions from oil and gas development.

In terms of similar actions, we are particularly concerned that the BLM failed to analyze and assess greenhouse gas emissions resulting from oil and gas leasing within Utah and in the nearby States of Colorado, Montana, Nevada, New Mexico, and Wyoming. It is notable that at the same time and in this same region of the western United States, the BLM has sold, is selling, and will be selling thousands of acres of oil and gas leases, including:

- Colorado: In May 2016, the BLM sold six lease parcels covering 6,960.48 acres. *See* https://www.blm.gov/style/medialib/blm/co/programs/oil_and_gas/Lease_Sale/2016/may.Par.43014.File.dat/May_2016_Results.pdf. And on December 8, 2016, only five days before Utah's oil and gas lease sale, the BLM is proposing to lease 31 parcels totaling 20,101 acres. *See* https://www.blm.gov/style/medialib/blm/co/programs/oil_and_gas/Lease_Sale/2016/november.Par.63919.File.dat/Dec_2016_Final_SN_v2.pdf. The BLM also has lease sales scheduled for February, 9, 2017, May 11, 2017, August 10, 2017, and November 9, 2017. *See* https://www.blm.gov/co/st/en/BLM_Programs/oilandgas/oil_and_gas_lease.html.

- Montana: In May of 2016, the BLM sold seven lease parcels totaling 913.86 acres. *See* https://www.blm.gov/style/medialib/blm/mt/blm_programs/energy/oil_and_gas/leasing/lease_sales/2016/may4_2016.Par.61532.File.dat/05-04-16%20Comp%20Results.pdf. And on December 8, 2016, the BLM sold 91 parcels totaling 19,790.175 acres. *See* https://www.blm.gov/style/medialib/blm/mt/blm_programs/energy/oil_and_gas/leasing/lease_sales/2016/oct16_2016.Par.89806.File.dat/10_18_16%20SaleNotice_Map_List_Stips_for%20posting.pdf. The BLM also has lease sales scheduled for January 24, 2017, May 3, 2017, July 11, 2017, and October 17, 2017. *See* https://www.blm.gov/mt/st/en/prog/energy/oil_and_gas/leasing/leasesaleinfo/2017_oil_and_gas_lease.html.

- New Mexico: In April of 2016, the BLM sold 43 lease parcels totaling 36,841.03 acres. *See* https://www.blm.gov/style/medialib/blm/nm/programs/0/og_sale_notices_and/2016/july_2016.Par.97830.File.dat/July%202016%20OG%20Lease%20Sale%20Notice.pdf. And in September of 2016, the BLM sold 36 lease parcels totaling 13,876.08 acres. *See* https://www.blm.gov/style/medialib/blm/nm/programs/0/og_sale_notices_and/2016/july_2016.Par.97830.File.dat/July%202016%20OG%20Lease%20Sale%20Notice.pdf. The BLM also has lease sales scheduled for January 18, 2017, April 19, 2017, and July 19, 2017. *See* https://www.blm.gov/sites/blm.gov/files/2017_FYOG_Schedule_updated1%2006-06_16_V3.pdf.

- Utah: The BLM sold numerous oil and gas lease parcels across thousands of acres on February 16, 2016 and May 3, 2016. In 2017, the BLM has lease sales scheduled in Utah for February 21, 2017, May 16, 2017, August 15, 2017, and November 21, 2017. *See* https://www.blm.gov/sites/blm.gov/files/uploads/SALERESULTS.pdf.

- Wyoming: On May 3, 2016, the BLM sold 95 oil and gas lease parcels totaling 86,608.8 acres. *See* https://www.blm.gov/wy/st/en/info/news_room/2016/may/blm_oil_and_gas_sales.html. And on November 1, 2016, the BLM sold 21 oil and gas lease parcels totaling 32,422.02 acres. *See* https://eplanning.blm.gov/epl-front-office/projects/nepa/60579/77921/87228/11_16sale_web.pdf. The BLM also has lease sales scheduled for February 7, 2017, May 2, 2017, August 1, 2017, and November 1, 2017. *See* https://www.blm.gov/wy/st/en/programs/energy/Oil_and_Gas/Leasing/reform/schedule.html.

Without any analysis of past, present, and reasonably foreseeable greenhouse gas emissions from these similar oil and gas leasing actions, any FONSI would be unsupported under NEPA.

The BLM appears to attempt to argue that an analysis of greenhouse gas emissions is more appropriate at the drilling stage. We have yet to see the BLM actually prepare such a site-specific analysis in conjunction with an oil and gas lease development proposal.

What's more, BLM's argument has no merit as the agency has proposed no stipulations that would grant the agency discretion to limit, or outright prevent, development of the proposed leases on the basis of greenhouse gas emissions and/or climate concerns. The BLM is effectively proposing to make an irreversible commitment of resources, which is the hallmark of significance under NEPA. *See* 42 U.S.C. § 4332(c)(v) and 40 C.F.R. § 1502.16. The failure to prepare an EIS—or any analysis for that matter—to address the potentially significant reasonably foreseeable greenhouse gas emissions that would result from the proposed leases is contrary to NEPA.

II. The BLM Fails to Analyze the Costs of Reasonably Foreseeable Carbon Emissions Using Well-Accepted, Valid, Credible, GAO-Endorsed, Interagency Methods for Assessing Carbon Costs that are Supported by the White House

Compounding the failure of the BLM to make any effort to estimate the greenhouse gas emissions that would result from reasonably foreseeable oil and gas development is that the agency also rejected analyzing and assessing these emissions in the context of their costs to society. It is particularly disconcerting that the agency did not analyze and assess costs using the social cost of carbon protocol, a valid, well-accepted, credible, and interagency endorsed method of calculating the costs of greenhouse gas emissions and understanding the potential significance of such emissions.

The social cost of carbon protocol for assessing climate impacts is a method for "estimat[ing] the economic damages associated with a small increase in carbon dioxide (CO2) emissions, conventionally one metric ton, in a given year [and] represents the value of damages avoided for a small emission reduction (i.e. the benefit of a CO2 reduction)." Exhibit 1, U.S. Environmental Protection Agency ("EPA"), "Fact Sheet: Social Cost of Carbon" (Nov. 2013) at 1, available online at https://www.epa.gov/climatechange/social-cost-carbon. The protocol was developed by a working group consisting of several federal agencies.

In 2009, an Interagency Working Group was formed to develop the protocol and issued final estimates of carbon costs in 2010. *See* Exhibit 2, Interagency Working Group on Social Cost of Carbon, "Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866" (Feb. 2010). These estimates were then revised in 2013 by the Interagency Working Group, which at the time consisted of 13 agencies. *See* Exhibit 3, Interagency Working Group on Social Cost of Carbon, "Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866" (May 2013). This report and the social cost of carbon estimates were again revised in 2015. *See* Exhibit 4, Interagency Working Group on Social Cost of Carbon, "Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866" (July 2015). Again, this report and social cost of carbon estimates were revised in 2016. *See* Exhibit 5, Interagency Working Group on Social Cost of

Carbon, "Technical Support Document: Technical Update of the Social Cost of Greenhouse Gases for Regulatory Impact Analysis Under Executive Order 12866" (Aug. 2016).

Most recently, as an addendum to previous Technical Support Documents regarding the social cost of carbon, the Department of the Interior joined numerous other agencies in preparing estimates of the social cost of methane and other greenhouse gases. *See* Exhibit 6, Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, "Addendum to Technical Support Document on Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide" (Aug. 2016).

Depending on the discount rate and the year during which the carbon emissions are produced, the Interagency Working Group estimates the cost of carbon emissions, and therefore the benefits of reducing carbon emissions, to range from $10 to $212 per metric ton of carbon dioxide. *See* Chart Below. In its most recent update to the Social Cost of Carbon Technical Support Document, the White House's central estimate was reported to be $36 per metric ton. *See* Exhibit 7, White House, "Estimating the Benefits from Carbon Dioxide Emissions Reductions." In July 2014, the U.S. Government Accountability Office ("GAO") confirmed that the Interagency Working Group's estimates were based on sound procedures and methodology. *See* Exhibit 8, GAO, "Regulatory Impact Analysis, Development of Social Cost of Carbon Estimates," GAO-14-663 (July 2014), available online at http://www.gao.gov/assets/670/665016.pdf.

Table ES-1: Social Cost of CO_2, 2010 – 2050 (in 2007 dollars per metric ton of CO_2)

Year	5% Average	**3% Average**	2.5% Average	High Impact (95th Pct at 3%)
2010	10	**31**	50	86
2015	11	**36**	56	105
2020	12	**42**	62	123
2025	14	**46**	68	138
2030	16	**50**	73	152
2035	18	**55**	78	168
2040	21	**60**	84	183
2045	23	**64**	89	197
2050	26	**69**	95	212

Most recent social cost of carbon estimates presented by Interagency Working Group on Social Cost of Carbon. The 95th percentile value is meant to represent "higher-than-expected" impacts from climate change. *See* Exhibit 5.

Although often utilized in the context of agency rulemakings, the protocol has been recommended for use and has been used in project-level decisions. For instance, the EPA recommended that an EIS prepared by the U.S. Department of State for the proposed Keystone XL oil pipeline include "an estimate of the 'social cost of carbon' associated with potential increases of GHG emissions." Exhibit 9, EPA, Comments on Supplemental Draft EIS for the Keystone XL Oil Pipeline (June 6, 2011).

More importantly, the BLM has also utilized the social cost of carbon protocol in the context of oil and gas approvals. In other recent Environmental Assessments for oil and gas leasing, the agency estimated "the annual SCC [social cost of carbon] associated with potential development on lease sale parcels." Exhibit 10, BLM, "Environmental Assessment for October 21, 2014 Oil and Gas lease Sale," DOI-BLM-MT-0010-2014-0011-EA (May 19, 2014) at 76, available online at http://www.blm.gov/style/medialib/blm/mt/blm_programs/energy/oil_and_gas/leasing/lease_sales/2014/oct__21_2014/july23posting.Par.25990.File.dat/MCFO%20EA%20October%202014%20Sale_Post%20with%20Sale%20(1).pdf. In conducting its analysis, the BLM used a "3 percent average discount rate and year 2020 values," presuming social costs of carbon to be $46 per metric ton. *Id*. Based on its estimate of greenhouse gas emissions, the agency estimated total carbon costs to be "$38,499 (in 2011 dollars)." *Id*. In Idaho, the BLM also utilized the social cost of carbon protocol to analyze and assess the costs of oil and gas leasing. Using a 3% average discount rate and year 2020 values, the agency estimated the cost of carbon to be $51 per ton of annual CO_2e increase. *See* Exhibit 11, BLM, "Little Willow Creek Protective Oil and Gas Leasing," EA No. DOI-BLM-ID-B010-2014-0036-EA (February 10, 2015) at 81, available online at https://www.blm.gov/epl-front-office/projects/nepa/39064/55133/59825/DOI-BLM-ID-B010-2014-0036-EA_UPDATED_02272015.pdf. Based on this estimate, the agency estimated that the total carbon cost of developing 25 wells on five lease parcels to be $3,689,442 annually. *Id*. at 83.

To be certain, the social cost of carbon protocol presents a conservative estimate of economic damages associated with the environmental impacts climate change. As the EPA has noted, the protocol "does not currently include all important [climate change] damages." Exhibit 1. As explained:

> The models used to develop [social cost of carbon] estimates, known as integrated assessments, do not currently include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature because of a lack of precise information on the nature of damages and because the science incorporated into these models naturally lags behind the most recent research.

Id. In fact, more recent studies have reported significantly higher carbon costs. For instance, a report published this month found that current estimates for the social cost of carbon should be increased six times for a mid-range value of $220 per ton. *See* Exhibit 12, Moore, C.F. and B.D. Delvane, "Temperature impacts on economic growth warrant stringent mitigation policy," *Nature Climate Change* (January 12, 2015) at 2. In spite of uncertainty and likely underestimation of carbon costs, nevertheless, "the SCC is a useful measure to assess the benefits of CO2 reductions," and thus a useful measure to assess the costs of CO2 increases. Exhibit 1.

That the economic impacts of climate change, as reflected by an assessment of social cost of carbon, should be a significant consideration in agency decisionmaking, is emphasized by a recent White House report, which warned that delaying carbon reductions would yield significant economic costs. *See* Exhibit 13, Executive Office of the President of the United States, "The Cost of Delaying Action to Stem Climate Change" (July 2014). As the report states:

> [D]elaying action to limit the effects of climate change is costly. Because CO_2 accumulates in the atmosphere, delaying action increases CO_2 concentrations. Thus, if a policy delay leads to higher ultimate CO_2 concentrations, that delay produces persistent economic damages that arise from higher temperatures and higher CO_2 concentrations. Alternatively, if a delayed policy still aims to hit a given climate target, such as limiting CO_2 concentration to given level, then that delay means that the policy, when implemented, must be more stringent and thus more costly in subsequent years. In either case, delay is costly.

Id. at 1.

The requirement to analyze the social cost of carbon is supported by the general requirements of NEPA, specifically supported in federal case law. Courts have ordered agencies to assess the social cost of carbon pollution, even before a federal protocol for such analysis was adopted. In 2008, the U.S. Court of Appeals for the Ninth Circuit ordered the National Highway Traffic Safety Administration to include a monetized benefit for carbon emissions reductions in an Environmental Assessment prepared under NEPA. *Center for Biological Diversity v. National Highway Traffic Safety Administration*, 538 F.3d 1172, 1203 (9th Cir. 2008). The Highway Traffic Safety Administration had proposed a rule setting corporate average fuel economy standards for light trucks. A number of states and public interest groups challenged the rule for, among other things, failing to monetize the benefits that would accrue from a decision that led to lower carbon dioxide emissions. The Administration had monetized the employment and sales impacts of the proposed action. *Id*. at 1199. The agency argued, however, that valuing the costs of carbon emissions was too uncertain. *Id*. at 1200. The court found this argument to be arbitrary and capricious. *Id*. The court noted that while estimates of the value of carbon emissions reductions occupied a wide range of values, the correct value was certainly not zero. *Id.* It further noted that other benefits, while also uncertain, were monetized by the agency. *Id*. at 1202.

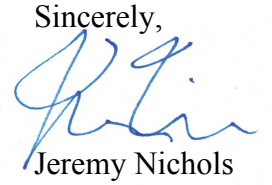
More recently, a federal court has done likewise for a federally approved coal lease. That court began its analysis by recognizing that a monetary cost-benefit analysis is not universally required by NEPA. *See High Country Conservation Advocates v. U.S. Forest Service*, 52 F.Supp. 3d 1174 (D. Colo. 2014), citing 40 C.F.R. § 1502.23. However, when an agency prepares a cost-benefit analysis, "it cannot be misleading." *Id*. at 1182 (citations omitted). In that case, the NEPA analysis included a quantification of benefits of the project. However, the quantification of the social cost of carbon, although included in earlier analyses, was omitted in the final NEPA analysis. *Id*. at 1196. The agencies then relied on the stated benefits of the project to justify project approval. This, the court explained, was arbitrary and capricious. *Id*. Such approval was based on a NEPA analysis with misleading economic assumptions, an approach long disallowed by courts throughout the country. *Id*.

A recent op-ed in the New York Times from Michael Greenstone, the former chief economist for the President's Council of Economic Advisers, confirms that it is appropriate and acceptable to calculate the social cost of carbon when reviewing whether to approve fossil fuel extraction. *See* Exhibit 14, Greenstone, M., "There's a Formula for Deciding When to Extract

Fossil Fuels," *New York Times* (Dec. 1, 2015), available online at http://www.nytimes.com/2015/12/02/upshot/theres-a-formula-for-deciding-when-to-extract-fossil-fuels.html?_r=0.

The social cost of carbon provides a useful, valid, and meaningful tool for assessing the climate consequences of the proposed leasing, and the BLM's failure to utilize this method of assessing climate impacts would be wholly inappropriate under NEPA. This is underscored by the fact that the BLM disclosed in the EA numerous monetary economic benefits that would result from the proposed leasing. While we do not suggest that a comprehensive cost-benefit analysis is required, the fact that economic benefits are disclosed in the EA indicates that costs and benefits are useful for assessing the significance of the proposed leasing. To this end, the BLM must disclose carbon costs in order to fully assess the significance of climate impacts and support any FONSI.

Sincerely,



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